IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.8399 OF 2004

1. Anis Ramzan Somji and anr. .. Petitioners

Vs

1. State of Maharahstra and ors. .. Respondents

Mr U.P.Warunjikar, for the petitioners.

Mr A.H.Palekar, AGP for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 3rd November,2004

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the orders passed by respondent nos 1 and 2 dated 30.6.2004 and 20.7.2002 respectively, by which the Application and the Appeal, seeking renewal of hotel licence bearing no. 406/02 dated 20.7.2002, have been rejected on the ground that a criminal case under sections 39 and 44 of the Indian Electricity Act, 1910 is pending against the petitioner. Mr Warunjikar, learned counsel for the petitioner, has placed heavy reliance on the judgment of this Court in Kana Nagu Mhatre Vs. Assistant Commissioner of Police, Panvel Division, Navi Mumbai, 1996 Cri.L.J. 3144 and contended that mere pendency of a criminal case cannot

be a ground for either cancellation of such licence or for refusal to renew the licence.

3. After having heard the learned counsel for the parties and perused the impugned orders, in my opinion, the appropriate course would be to direct the concerned authority, viz. Respondent no.2, to consider the application dated 29.4.2003 filed by the petitioner seeking renewal of the licence afresh in the light of the law laid down by this Court in Kana Nagu Mhatre case within timeframe. Hence, the following order.

(a) The petition succeeds. The orders impugned in the instant petition dated 20.7.2002 and 30.6.2004 are quashed and set aside.

(b) Respondent no.2 is directed to consider the application of the petitioner dated 29.4.2003 afresh as expeditiously as possible and preferably within a period of six weeks from today on merits in accordance with law and in the light of the law laid down by this Court in Kana Nagu Mhatre case.

(c) © The petitioner to communicate this order to the Commissioner within one week from today.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)